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SIPDIS

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SUBJECT: JAPANESE IDEAS ON ENDING TORTURE: "JUST DON'T DO IT"

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Classified By: Classified by CDA James P. Zumwalt per 1.4 (b/d)

¶1. (C) In response to Reftel, Embassy Tokyo asked Japanese governmental and non-governmental organizations and academicians for examples of programs, policies, and initiatives, that are successful in countering torture and assisting victims in other countries around the world. The main themes that emerged are: 1) the importance of the United States as a role model; 2) the importance of understanding the social and/or historical context in which torture tends to occur; 3) perceived weaknesses in the Japanese criminal justice system in terms of torture-prevention; and, 4) Japanese attempts to remedy these weaknesses which might serve as a model for other countries.

THE UNITED STATES MUST BE A ROLE MODEL IN FIGHTING TORTURE

¶2. (C) Without exception, President Obama's commitment to end torture and work with both civil society organizations, and other countries to accomplish this goal, was cited by our interlocutors and was well-received by those working in this area in Japan. As Sonoko Kawakami, Campaign Coordinator, Amnesty International Japan, put it "The U.S. government has a great opportunity to demonstrate best practices in ending torture." As Tashi Dhundup, a visiting Human Rights and International Law academician from Brandeis University, said: "I'm tempted to quote George Carlin, 'Just don't do it (torture)!' The United States can lead on this issue, but only by remembering that 'Charity begins at home.'"

THERE IS A SOCIAL AND HISTORICAL CONTEXT UNDER WHICH TORTURE TENDS TO OCCUR

¶3. (C) Many -if not most- of the activists in Japan's growing civil society, have an ambivalent view, based on Japan's own WWII record, of the ability of governments to use "security" as an excuse to make torture serviceable, and even morally necessary tool. As Kanae Doi, Tokyo Director of Human Rights Watch explained: "There are few instances of torture in Japan now, not because of any particular safeguards, but because there are rarely any serious acts in Japan" that can be used

as an excuse to justify torture. She pointed out that Japanese penal law does set assaults committed by public employees (including police and prosecutors) as a more serious crime than regular assault. "But," she added, "it is obvious that more torture existed in Japan during World War II under the 'Maintenance of Public Order' law, which was repealed thanks to occupying forces from the United States."

PERCEIVED WEAKNESSES IN THE JAPANESE CRIMINAL JUSTICE SYSTEM
IN TERMS OF TORTURE-PREVENTION

14. (C) Japanese non-governmental organizations feel that Japan itself still has work to do in terms of its own torture-prevention practices. In a written statement Yuichi Kaido, Kantaro Nagano, and Shiro Yanagi of the Japan Federation of Bar Associations (JFBA) stated, "The basic problems the JFBA reported to the UN Committee against Torture in April and May 2007 in regards to UN Convention Against Torture (CAT) implementation by the government of Japan were: Reform of the police detention system including systematic examination of interrogation rules such as videotaping and recording interrogation; end of capital punishment system; improvement in human rights of foreigners and children; and human rights education." Commenting on these suggestions Makoto Teranaka, Secretary General of Amnesty International Japan, notes that although Japan is a signatory to the Convention Against Torture (CAT), "Japan has not met all of the recommendations made to it in 2007 for CAT compliance." "In fact," he added, "the 'Daiyo Kangoku' pre-trial detention system still exists; there is only limited recording during interrogations; and the lengths of interrogations are not strictly regulated."

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JAPANESE ATTEMPTS TO REMEDY ITS WEAKNESSES THOUGH MIGHT SERVE
AS A MODEL

15. (C) The Japanese government has undertaken reforms including the formation of independent inspection committees for penal institutions, as well as experimenting with video-taping interrogations. As the JFBA made clear in its written statement: "We highly value Japan's introduction of independent inspection committees to detention facilities as a great step." The Government of Japan believes these changes may be useful models for other countries. According to Makoto Tanabe, Deputy Director, Human Rights and Humanitarian Affairs Division, MOFA: "We recommend two programs as examples of ways of countering torture. The first is our Penal Institution Visiting Committee. This consists of ten individuals of integrity and insight with a passionate interest in the administration of penal institutions. The committee visits penal institutions, including police detention facilities, and also hold interviews with detainees. The goal is transparency and an enhanced partnership between penal institutions and the community at large. The National Police Agency has also started a widespread pilot program to videotape all interrogation proceedings."

16. (C) The idea that the Japanese government is making progress was a view echoed and qualified by Nobuki Fujimoto, Asia-Pacific Human Rights Researcher, at HuRights Osaka, who said: "The Japanese Diet adopted a draft amendment of the Immigration Control Act on July 8 2009, which contains provisions for the non-refoulement of asylum seekers, in addition to creating Visiting Committees for Immigration Detention facilities, which currently aren't covered by them. These are positive policies of our government aimed at ending torture. But we must actually monitor the implementation. Good laws exist, but transparency, and accountability have to apply to all of the dark corners."

ZUMWALT